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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate
compilation

MINISTRY OF LABOUR AND
REHABILITATION

(Department of Labour)

NOTIFICATION

New Delhi, the 13th March, 1984

S.O. 160(E).—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Jaipur in the industrial dispute between the employers in relation to the management of Rajasthan Bank Employees Union, Jaipur and their workman, which was received by the Central Government on the 21st February, 1984.

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, RAJASTHAN, JAIPUR

Case No. C.I.T. 35/1982

Reference :

Desk Officer, Government of India, Ministry
of Labour, New Delhi Order No.

L-12025/24/81-D. II. A.) dated 15th
October 1961.

In the matter of an Industrial Disputes

BETWEEN

Rajasthan Bank Employees Union

AND

The Bank of Rajasthan Limited

PRESENT :

For the Union—Shri S. N. Gupta in person.

For the Management—Shri J. K. Singhi, ad-
vocate.

Date of Award : 4th January 1984.

AWARD

I have heard Shri J. K. Singh and Shri S. N. Gupta who is present in person.

The Writ Petition No. 1309/80 under Article 226 of the Constitution of India by the Rajasthan Bank Employees' Union against the Award of the Central Government Industrial Tribunal (New Delhi). The dispute which was adjudicated under the Award of the Tribunal was as follows :—

“Whether the action of the management of the Bank of Rajasthan Ltd., Jaipur in terminating the services of Shri S. N. Gupta w.e.f. 30-7-1976 is legal and justified, If not, to what relief is the workman entitled ?”

2. The Tribunal framed as many as four issues for decision which are as under :—

1. Whether the services of the workman Shri S. N. Gupta were terminated by the Bank of Rajasthan in exercise of powers vested in the Bank under para 522 of the Shastry Award ?
2. Whether the services have been terminated under 522 of Shastry Award bonafide ?
3. Whether the action of the Management of the Bank of Rajasthan Ltd., Jaipur in terminating the services of Shri S. N. Gupta w.e.f. 30-7-76 is legal and justified ?
4. If issue No. 3 is decided against the Bank to what relief is the workman entitled ?

The decision of this Tribunal on Issue Nos. 1 to 4 was that the services of the workman Shri S. N. Gupta were terminated by the Bank in exercise of powers vested in it under para 522 of the Shastry Award, that the termination of the services of Shri S. N. Gupta under para 522 of Shastry Award was bonafide, that the order was a simple termination order in pursuance of para 522 of the Shastry Award and does not involve any element of penalty and not by way of disciplinary action or for misconduct, and that Section 25-F of the Industrial Disputes Act, 1947 (for short the Act hereinafter) was not attracted. It was also held that the order was not retrenchment within the meaning of Section 2(oo) of the Act. (Consequently the Tribunal held that Shri S. N. Gupta was not entitled to any relief. The learned single judge set aside the Award dated 12th December, 1979 of the Tribunal and ordered that the Tribunal will re-consider the matter and answer the reference

in the light of its order. While doing so it shall also consider the question with regard to the payment of back wages to Shri S. N. Gupta.

3. The Bank challenged the judgment of learned single judge in special appeal which was registered as D. B. Special appeal No. 223/81. There was difference in opinion in between the two judges constituting the D. B. The matter was referred to the third judge who agreed with one of the judges who had ordered dismissal of the special appeal. Consequently the D.B. under its order dated 26th October 1983 in view of the majority judgment ordered dismissal of appeal and confirmed the order passed by the learned single judge who had allowed the Writ petition.

4. In view of the fact that the Award passed by the Central Government Industrial Tribunal was set aside by the High Court, the matter is to be disposed of as per the judgment. The removal from service of Shri S. N. Gupta has been held to be retrenchment within the meaning of Section 2(oo) of the Act and that too without following the provisions of Section 25-F of the Act. It has been directed that the reference is to be answered in the light of the order made by the learned single judge. Under the aforesaid order it has been held that that order of termination of Shri S. N. Gupta was passed without complying with section 25-F and G of the Act, and as such is void and ineffective. In view of the clear finding of the learned single judge these questions are no longer open for decision and order of removal from service is non est because it was passed in contravention of Section 25-F of the Act. The question which only remains is as to whether Shri Gupta was ever gainfully employed after his removal from service. Evidence on that point has been recorded by this Tribunal. In spite of opportunities having been granted to the Bank, it did not lead any evidence to prove that Shri Gupta had ever been gainfully employed after his retrenchment. Shri S. N. Gupta has examined himself and has said that he is without any job since the date of his removal from service. The general rule is that in case of retrenchment without following the provisions of S. 25-F and G of the Act, a worker is entitled to be reinstated with full back wages. Thus it cannot be said that Shri Gupta was gainfully employed after the date of his removal from service. On the contrary on the material on record it can be said that

Mr. Gupta, the worker has been without job since the date of his removal from service. The normal rule of reinstatement with full back wages is to be followed.

5. In the result it is hereby declared that the action of the management of the Bank of Rajasthan Limited in terminating the services of Shri S. N. Gupta w.e.f. 30-7-76 is illegal and unjust. The worker Shri S. N. Gupta is entitled to a relief of reinstatement w.e.f. July 30, 1976, from the date he was dismissed and that too with full back wages along with interest @ 9 per cent per annum w.e.f. October 26, 1983 the date special appeal was dismissed and all consequential benefits financial or otherwise to which he may be entitled under the

Rules. It is, however, made clear that the bank shall be free to make adjustments of the any amount paid during the pendency of these proceedings. The worker shall get Rs. 200 as costs of this case from the Bank.

6. Let the Award be sent to the Central Government for publication under Section 17(1) of Act.

MAHENDRA BHUSHAN SHARMA,
Presiding Officer,

[No. L-12025/24/81-D.II(A)]
V. S. AILAWADI, Jt. Secy.

